

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

ALVIN MAURICE LIPSEY,	)	
	)	
<i>Petitioner,</i>	)	
	)	
v.	)	Cause No. 3:12-CR-114 R:M
	)	
UNITED STATES OF AMERICA,	)	
	)	
<i>Respondent.</i>	)	

OPINION AND ORDER

Alvin Lipsey pleaded guilty to bank robbery in violation of 18 U.S.C. §2113(d) and using a firearm during the commission of the robbery violation of 18 U.S.C. § 924(c). The court sentenced Mr. Lipsey to a term of 290 months' imprisonment. After Mr. Lipsey challenged his conviction under 28 U.S.C. § 2255, he was resentenced to a term of 123 months' imprisonment. He has made subsequent 28 U.S.C. § 2255 challenges which the court has denied. Since this court's denial of Mr. Lipsey's most recent 28 U.S.C. § 2255 challenge, the Supreme Court decided in United States v. Davis, 588 U.S. \_\_ (2019).

Issuance of a certificate of appealability requires the court to find that Mr. Lipsey has made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). He has done so in light of United States v. Davis.

Mr. Lipsey's collateral attack failed under existing circuit precedent. He didn't show that the appeal waiver was uninformed or involuntary, that a collateral attack was outside of its scope, that sentencing relied on a constitutionally impermissible factor, that his sentence exceeded the statutory

maximum, or that his counsel provided ineffective assistance in negotiating the plea agreement. See Keller v. United States, 657 F.3d 675, 681 (7th Cir. 2011) (listing exceptions to otherwise valid appeal waiver). This is an area in which reasonable jurists might disagree.

Based on the foregoing, this court GRANTS issuance of a certificate of appealability to Mr. Lipsey with respect to his sentence and conviction under 18 U.S.C. § 924(c) in light of United States v. Davis.

SO ORDERED.

ENTERED: August 6, 2019

/s/ Robert L. Miller, Jr.  
Judge  
United States District Court